

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BRADLEY N. THOMA, a single  
person,

Plaintiff,

v.

CITY OF SPOKANE, a municipal  
corporation in and for the State  
of Washington; and ANNE E.  
KIRKPATRICK, a single person,,

Defendants.

No. CV-12-0156-EFS

**PROTECTIVE ORDER**

On February 4, 2013, the parties filed a joint Agreed Motion for Entry of Stipulated Protective Order, ECF No. 20. The parties ask the Court to enter their stipulated proposed protective order in this matter. Having reviewed the pleadings filed in connection with the motion, the Court is fully informed. Pursuant to the parties' stipulation and Federal Rules of Civil Procedure 26(c) and 34, the Court finds good cause to grant the motion.

Accordingly, **IT IS HEREBY ORDERED:**

1. The parties' joint Agreed Motion for Entry of Stipulated Protective Order, **ECF No. 20**, is **GRANTED**.
2. This Protective Order governs the handling of documents (as defined in Rule 34 of the Federal Rules of Civil

1 Procedure), tangible things, depositions and deposition  
2 exhibits, interrogatory answers, responses to requests for  
3 admission, and other written, recorded, video recorded,  
4 electronic or graphic matter ("discovery material")  
5 produced by any party or nonparty during the proceedings in  
6 this action, which contain "Protected Information" as  
7 hereinafter defined. All such discovery material disclosed  
8 during the course of this litigation that contain Protected  
9 Information, as defined below, are hereby subject to the  
10 following terms and conditions, and shall be disclosed only  
11 as provided by this Stipulated Protective Order.

12 3. "Protected Information" means discovery material that  
13 contains sensitive information, including, but not limited  
14 to, medical, psychiatric or other therapeutic records,  
15 confidential investigations, internal employee  
16 investigations, citizen complaints and disciplinary  
17 actions, the disclosure of which without restriction could  
18 cause harm to the disclosing party.

19 4. Protected Information disclosed in this action shall be  
20 used by the parties solely for the purposes of this  
21 Litigation, and shall not be given, shown, made available,  
22 discussed or otherwise communicated in any form, except as  
23 provided herein, other than with the express written  
24 consent of the producing party or pursuant to Court Order.

25 5. Designation of portions, or the entirety, of deposition  
26 transcripts (including exhibits) as "Confidential" and/or

1 "Attorneys' Eyes Only," as the case may be, shall be made  
2 by a statement to such effect on the record in the course  
3 of the deposition. As to all discovery material provided,  
4 under no circumstances, other than those specifically  
5 proved for in this or subsequent court orders, shall  
6 Protected Information be disclosed to persons other than  
7 the following:

- 8 a. counsel for any party, and paralegal, clerical and  
9 secretarial employees of counsel of record, who are  
10 working directly on the Litigation;
- 11 b. persons retained by any party as independent  
12 consultants or independent potential expert  
13 witnesses;
- 14 c. any person who is an author, addressee, or recipient  
15 of, or who previously had access to, the Confidential  
16 Discovery Material;
- 17 d. the Court and its personnel;
- 18 e. Plaintiff;
- 19 f. the individual Defendant;
- 20 g. representatives of the municipal Defendant and  
21 employees of the municipal Defendant who have need  
22 for access to such Protected Information in order to  
23 assist with the Litigation; on the condition that  
24 prior to providing Protected Information to such  
25 representatives or employees, Defendants' counsel  
26

1 shall alert Plaintiff's counsel as to the disclosure;  
2 and

3 h. other persons, but only upon order of the Court, or  
4 upon stipulation of the parties.

5 6. Notwithstanding paragraph 5, any documents designated as  
6 "Attorney's Eyes Only" may be disclosed only to counsel and  
7 to the Court and its personnel. Further, certain personal  
8 information such as social security numbers, bank account  
9 numbers, and other personal identifying information, will  
10 be redacted from the records prior to production.

11 7. Any person receiving Protected Information under the terms  
12 of this Order shall be subject to the jurisdiction of this  
13 Court for purposes of any proceedings relating to  
14 compliance with or violations of this Order.

15 8. Further, those persons given access to Protected  
16 Information must first be informed by counsel of the  
17 obligations imposed by this Order, must read the Order, and  
18 must agree to abide by its terms.

19 9. Protected Information should be marked "Confidential" or  
20 "Attorney's Eyes Only" at the time of its production.

21 10. Except as otherwise provided for in this Order, all  
22 "Protected Information" shall remain in possession of  
23 counsel for the respective parties or the parties  
24 themselves, and be stored in a secure place.

25 11. Each person covered by this Order shall take all necessary  
26 precautions to prevent disclosure of Protected Information.

1 The obligations imposed by this Order shall survive the  
2 entry of final judgment in this matter.

3 12. Should the parties wish to use any document marked  
4 "Confidential" or "Attorney's Eyes Only" in support of a  
5 brief filed with the Court, that party shall take all  
6 reasonable steps to file such document in redacted form if  
7 possible, or under seal, by following the procedures as set  
8 forth by the Local Rules of that Court.

9 13. Should the parties wish to use any document marked  
10 "Confidential" or "Attorney's Eyes Only" in the course of  
11 taking depositions, that party shall designate the document  
12 as confidential on the record, or as soon as is practicable  
13 after preparation and receipt of a transcript of the  
14 deposition.

15 14. Should a party object to the designation of a certain  
16 document as "Confidential" or "Attorney's Eyes Only," the  
17 parties shall first attempt to resolve the objection  
18 without intervention by the Court. Should the parties fail  
19 to resolve the matter by agreement, nothing in this Order  
20 prevents the parties from submitting the matter to the  
21 Court for resolution. Until the Court resolves the matter,  
22 the disputed information shall be treated as Protected  
23 Information.

24 15. Within 30 days after the conclusion of this action,  
25 including any appeal or remand, counsel shall: (i) destroy  
26 all Protected Information and certify in writing that such

1 destruction has occurred; and/or (ii) return the Protected  
2 Information to the parties from which the information was  
3 received.

4 16. Nothing contained in this Order precludes a party from  
5 seeking relief from this Order, or from seeking greater  
6 protection for specified information, through the filing of  
7 an appropriate motion with the Court.

8 17. If a producing party determines that a previously-produced  
9 document inadvertently was not identified as containing  
10 Protected Information, the producing party shall give  
11 notice in writing that the information is to be treated as  
12 Protected Information. After the receipt of such notice by  
13 opposing counsel, the designated document shall be treated  
14 as Protected Information in accordance with this Order.

15 18. Counsel shall promptly report any breach of the provisions  
16 of this Order to opposing counsel. Upon discovery of any  
17 breach, counsel shall immediately take appropriate action  
18 to cure the violation and retrieve any Protected  
19 Information that may have been disclosed to person not  
20 covered by this Order.

21 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this  
22 Order and provide copies to all counsel.

23 **DATED** this 21<sup>st</sup> day of February 2013.

24 s/ Edward F. Shea  
25 EDWARD F. SHEA  
26 Senior United States District Judge